

**Before the State of South Carolina
Department of Insurance**

In the matter of:

File Number 2004-121875

Willie A. Whaley
1132 Glenwood Drive
Orangeburg, South Carolina 29115

**Consent Order
Imposing Administrative Penalty And
Probation**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Mr. Willie A. Whaley, a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact, that Mr. Whaley, while licensed to do business as a resident insurance agent within the State of South Carolina for Settler's Life Insurance Company, erroneously represented certain facts in an application for life insurance policy on a Lillie Halsey. Mr. Whaley acknowledges this and contends this failure resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. Nevertheless, these actions can ultimately lead to the revocation of his license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Judge Division.

Prior to the initiation of any administrative proceedings by the Department against him, Mr. Whaley and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Mr. Whaley would waive his right to a public hearing, and immediately pay an administrative penalty through the Department in the total amount of \$2,000.00. In lieu of seeking to revoke Mr. Whaley's resident insurance agent license, the Department would also place him on probation for one year.

Section 38-45-140 of the South Carolina Code grants the Director of Insurance the power to revoke an insurance producer's license for violating any of South Carolina's Insurance Laws. Similarly, § 38-43-130 also provides the Director of Insurance with the authority to revoke a producer's license "when it appears that a producer has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State." Subsection (c)(8) specifically defines "deceived or dealt unjustly with the citizens of this State" to include, but not limited to, action or inaction by the producer as follows: "using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Mr. Willie Whaley has violated S.C. Code Ann.

§ 38-43-130(c)(4) (Supp. 2003). As a result, I can now revoke his resident insurance producer's license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2003), and after carefully considering the recommendation of the parties, I hereby impose against Mr. Whaley an administrative fine in the total amount of \$2,000.00 and place him on probation for one year. If Mr. Whaley fails to pay the fine or is found to be in violation of any of the State's insurance laws within that probationary period, his resident insurance producer's license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of Mr. Whaley's assurance that in the future he will comply with the State's insurance laws. The parties expressly agree and understand that this resolution constitutes full accord and satisfaction of this matter. By his signature upon this consent order, Mr. Whaley acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2003).

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2003).

It is, therefore, ordered that Mr. Whaley shall pay through the Department an administrative fine in the total amount of \$2,000.00 and be placed under one year probation.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Whaley's licensing file.

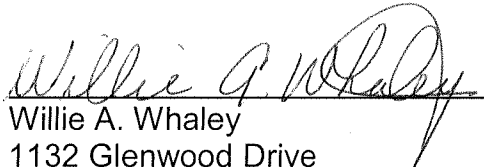
This order becomes effective as of the date of my signature below.



Eleanor Kitzman
Director

August 10, 2005
Columbia, South Carolina

I CONSENT:


Willie A. Whaley
1132 Glenwood Drive
Orangeburg, South Carolina 29115.

Dated this day of August, 200